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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 **LASHAWN BAREFIELD,**

12 **Plaintiff,**

13 **v.**

14 **THE BOARD OF TRUSTEES OF**  
15 **THE CALIFORNIA STATE**  
16 **UNIVERSITY, BAKERSFIELD, JIM**  
17 **GEORGE, DIANE HENDRICKSON,**  
18 **MARK MURIE, DOES 1 through 50,**  
19 **inclusive,,**

20 **Defendants.**

**CIV-F-05-0633 AWI TAG**

**ORDER REGARDING**  
**PARTIES' STIPULATION**

**ORDER DIRECTING CLERK**  
**OF COURT TO CLOSE THIS**  
**ACTION**

21 On June 10, 2008, the parties filed a stipulation for dismissal of this case with prejudice.  
22 Although not expressly stated, this stipulation is made pursuant to Federal Rule of Civil  
23 Procedure 41(a)(1)(ii). The notice is signed by the remaining parties in this case.

24 Rule 41(a)(1), in relevant part, reads:

25 an action may be dismissed by the plaintiff without order of court (i) by filing a  
26 notice of dismissal at any time before service by the adverse party of an answer or  
27 of a motion for summary judgment, whichever first occurs, or (ii) by filing a  
28 stipulation of dismissal signed by all parties who have appeared in the action.  
Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is  
without prejudice, except that a notice of dismissal operates as an adjudication  
upon the merits when filed by a plaintiff who has once dismissed in any court of  
the United States or of any state an action based on or including the same claim.

1 Rule 41(a)(1)(ii) thus allows the parties to dismiss an action voluntarily, after service of an  
2 answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared,  
3 although an oral stipulation in open court will also suffice. Carter v. Beverly Hills Sav. & Loan  
4 Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir.  
5 1986). Once the stipulation between the parties who have appeared is properly filed or made in  
6 open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro.  
7 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4; see also In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989);  
8 Gardiner v. A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984).

9 Because a stipulation for dismissal of this case with prejudice has been filed and signed  
10 by all parties who have made an appearance, as required by Rule 41(a)(1)(ii), this case has  
11 terminated. See Fed. R. Civ. Pro. 41(a)(1)(ii); In re Wolf, 842 F.2d at 466; Gardiner, 747 F.2d at  
12 1189.

13 Therefore, the Clerk of the Court is DIRECTED to close this case in light of the filed and  
14 properly signed Rule 41(a)(1)(ii) Stipulation Of Dismissal With Prejudice.

15  
16 IT IS SO ORDERED.

17 **Dated: June 11, 2008**

**/s/ Anthony W. Ishii**  
**UNITED STATES DISTRICT JUDGE**